

### **REMARKS/DISCUSSION OF ISSUES**

By this Amendment, Applicants amend claims 1 and 6-11. Accordingly, claims 1-11 are pending in the application.

The undersigned attorney thanks the Examiner for a brief telephonic interview on 27 February 2009 to discuss the Examiner's rejections of claims 9-11 under 35 U.S.C. § 102, and in particular the Examiner's understanding of the scope of what is encompassed by "*adapted to*" language versus the scope of what is encompassed by "*programmed to*" language.

Applicants hereby amend claims 9-11 in accordance with that understanding.

Reexamination and reconsideration are respectfully requested in view of the following Remarks.

### **35 U.S.C. § 112, Second Paragraph**

The Office Action rejects claims 8-11 under 35 U.S.C. § 112, Second Paragraph for various reasons.

Regarding claims 8 and 9, Applicants amend the claims to clarify the scope of the record carrier, that the data stream (claim 8) and instructions (claim 9) are stored in the record carrier, and that in claim 9 the instructions cause a processor to perform the method as claimed in claim 1.

Regarding claims 10 and 11, Applicants amend the claims to recite specific structures that perform recited features thereof.

Accordingly, Applicants respectfully request that the rejections of claims 8-11 under 35 U.S.C. § 112, Second Paragraph be withdrawn.

### **35 U.S.C. § 101**

The Office Action rejects claims 1-9 under 35 U.S.C. § 101.

Without agreeing with or acquiescing to the reasoning for their rejection, Applicants amend claims 1-7 to positively tie the recited methods and steps to another statutory class ("manufacture").

Applicants also amend claims 8 and 9 to clarify that they claim only tangible physical structures. Such physical structures are clearly "manufactures" and therefore are *per se* patentable subject matter under 35 U.S.C. § 101.

Accordingly, Applicants respectfully request that the rejections of claims 1-9 under 35 U.S.C. § 101 be withdrawn.

### **35 U.S.C. § 102**

The Office Action rejects claims 9-11 under 35 U.S.C. § 102 over prior art universal computing units, and rejects claim 9 over prior art record carriers that store computer operating systems.

By this Amendment, Applicants amend claims 9-11.

Claims 10-11 now clearly recite that the apparatus includes a processor that is actually programmed to execute an algorithm which provides specifically recited features.

Applicants respectfully submit that universal computing units of the prior art are not programmed to execute such an algorithm, and therefore do not anticipate the claimed apparatuses.

Claim 9 now clearly recites that the instructions, when executed by a processor, actually cause the processor to perform the method as claimed in claim 1.

Applicants respectfully submit that a general operating system will not by itself cause a processor to execute such a method.

Accordingly, Applicants respectfully request that the rejections of claims 9-11 under 35 U.S.C. § 102 be withdrawn.

### **CONCLUSION**

In view of the foregoing explanations, Applicants respectfully request that the Examiner reconsider and reexamine the present application, allow claims 1-11 and pass the application to issue.

In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact Kenneth D. Springer (Reg. No. 39,843)

at (571) 283.0720 to discuss these matters.

Respectfully submitted,

VOLENTINE & WHITT



By:

\_\_\_\_\_  
Kenneth D. Springer  
Registration No. 39,843

VOLENTINE & WHITT  
11951 Freedom Drive, Suite 1260  
Reston, Virginia 20190  
Telephone No.: (571) 283.0724  
Facsimile No.: (571) 283.0740